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PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE AS
DESIGNATED/ELECTED OFFICE

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Applicants: J.L. Duffy, et al.

Serial No.: 10/540,283 (Case No. 21304YP)

Art Unit:
1609

Filed: June 20, 2005

Examiner:
Sun Jae Y.
Loewe

Entitled: 3-AMINO-4-PHENYLBUTANOIC ACID
DERIVATIVES AS DIPEPTIDYL PEPTIDASE
INHIBITORS FOR THE TREATMENT OR
PREVENTION OF DIABETES

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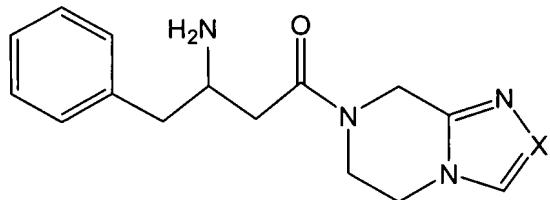
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

ELECTION/ RESTRICTION REQUIREMENT

Sir:

In response to the Examiner's Election/Restriction Requirement dated June 26, 2007, for which a response is due by July 26, 2007, please consider the following remarks.

Applicants hereby provisionally elect for continued examination with traverse the invention defined in Group III, Claim(s) 3-6, 11-23 (in part), drawn to compounds not covered by Groups I and II as defined in the Restriction Requirement dated June 26, 2007. The traversal is made on the grounds that it is believed that Groups I-VI relate to a single inventive concept which is a class of compounds of the formula below useful for the treatment of diabetes:



wherein X is N or CR² as defined in Applicant's specification. The compounds defined by Group III fall within the same class as those of Groups I and II.

In compliance with the Restriction Requirement, the Applicant also elects to be examined the species as defined in Example 19 of the specification.

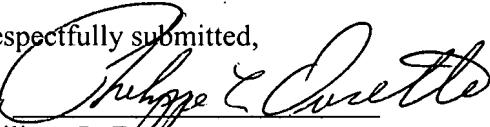
In the event that the restriction requirement is made final, Applicant elects Group III, as indicated, holding Groups I, II, and IV-VI in abeyance for further prosecution in a divisional application(s) at a later date.

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450, on the date appearing below.

MERCK & CO., INC.

By Pamela Spalding Date 7-9-07

Respectfully submitted,

By 
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Date: July 9, 2007